

Team: Commissioner's Office

Discussion Topic: Delegation of School Quality Standards (SQS) Waiver Authority

Statutory Authority: 16 V.S.A. § 165; State Board Rules 1260 and 2121

Background Information:

State Board Rule 2121 presently vests in the State Board the responsibility for acting upon district requests for SQS waivers. Section 25(a)(3) of Act 44 of 2009 authorizes the Commissioner to act upon SQS waiver requests in instances where the State Board has not taken up such a request "at its next meeting." See below:

Sec. 25. WAIVERS; SCHOOL QUALITY STANDARDS

(a) The general assembly:

(1) Is committed to promoting the flexibility needed to transform

Vermont's educational system.

(2) Takes notice of the state board of education rule enabling school

boards to request and, under circumstances protecting school quality, obtain
variances from school quality standards.

(3) Authorizes the commissioner of education to act directly on a
variance request, if the state board of education fails to render a decision at its
first regularly scheduled meeting following receipt of a request for a variance.

(4) Encourages school district and supervisory union boards to request
variances pursuant to subdivision (2) of this subsection.

(b) On or before March 1, 2010, the commissioner shall report to the senate
and house committees on education regarding variances requested and granted
under this section. The report shall highlight innovative approaches for which
variances were granted and describe the manner in which the commissioner
has informed other districts and supervisory unions of these innovations.

This power was invoked in September 2009 because the State Board did not meet in August 2009, and because an SQS waiver request had been received between the June and August State Board meetings. The Commissioner's granting of that SQS waiver request worked smoothly, and saved significant effort, both on the part of the State Board and the Department. The proposed delegation of SQS waiver authority also supports Transformation in that it allows for more rapid turn around of SQS waiver requests, and it helps address the capacity problems that attend the current budgetary stresses. If the State Board approves this request, the Commissioner will periodically send the State Board copies of SQS waiver requests and the actions taken thereon.

Purpose of Discussion:

To ascertain the Board's interest in delegating its SQS waiver authority directly to the Commissioner.

Cost Implications:

Adoption of the recommendation will increase the efficiency of processing SQS waiver requests, both for the State Board and for DOE staff, thereby saving costs.

Commissioner's Recommendation:

The Commissioner advances and supports the request, for the reasons set forth above.

Staff Available: Armando Vilaseca, Commissioner; Mark Oettinger, General Counsel